the death of the husband, and before the transfer of the policy to his wife, who succeeded to and continued the business. *Kolb* v. *Brummer* (App. Div. 3rd Dept. 1918) 173 N. Y. Supp. 72.

Insurance is a conditional personal contract, whatever the subject matter may be, 1 Joyce, Insurance (2nd ed.) §§ 22, 23, and this is undoubtedly true of workmen's compensation insurance. The insurer can say with whom he will contract and is not bound to accept under the policy any person to whom the insured may transfer his property. See *Hunt* v. *Springfield Fire & Marine Ins. Co.* (1904) 196 U. S. 47, 25 Sup. Ct. 179. The policy is subject to all the lawful conditions which it contains. *Allen* v. *German American Life Ins. Co.* (1890) 123 N. Y. 6, 25 N. E. 309; *Dwight* v. *Germanic Life Ins. Co.* (1886) 103 N. Y. 341, 8 N. E. 654. A condition against a change of interest is lawful, see *Sherwood* v. *Agricultural Ins. Co.* (1873) 73 N. Y. 447, and the death of the insured is a change of interest within the meaning of such condition. *Matter of Hine* v. *Woolworth* (1883) 93 N. Y. 75; *Sherwood* v. *Agricultural Ins. Co., supra.* Generally the death of a party terminates a personal contract, *Sargent* v. *McLeod* (1913) 209 N. Y. 360, 103 N. E. 164, because of a condition implied, *Lacy* v. *Getman* (1890) 119 N. Y. 109, 23 N. E. 452, or expressed, as in the principal case. *Matter of Hine* v. *Woolworth, supra.* Furthermore, the termination of a policy, because of the happening of an expressed condition is not a "cancellation" within the meaning of Sec. 54, subd. 5 of the New York Workmen's Compensation Act, requiring the insurer to give ten days notice before the cancellation of the policy. Consequently, any liability of the insurance company must have arisen by virtue of a new contract with the wife, which was made in this case, after the injury to the employee. Since the power given the employee to sue under the policy, does not give him a better right of action than his employer has, *Northern Employers Mut. Indemnity Co.* v. *Kniven* (1902) 18 T. L. R. 504, the decision seems sound. And, since the statute makes the employer primarily liable, Workmen's Compensation Act, N. Y. Consol. Laws c. 67, this holding does not deprive the employee of the protection guaranteed to him by the act.

INTERSTATE COMMERCE—REED AMENDMENT—CONDITIONAL PROHIBITION BY CONGRESS.—A statute of West Virginia prohibits the sale and manufacture of liquor, but permits a person to bring into the state a quart of liquor in any period of thirty days, for personal use. Defendant carried a quart of liquor into the state of West Virginia for this purpose. He was tried under the Reed Amendment, Comp. Stat., 1918, §§ 8739a, 10387a, 10387c, which makes it a crime for one to carry any liquor into a state which prohibits the sale and manufacture thereof. *Held,* two justices dissenting, that the Reed Amendment was constitutional and that the conflicting state law must give way to the federal act. *United States* v. *Hill* (1919) 39 Sup. Ct. 143.

Carriage of property upon the person constitutes commerce within the commerce clause. See *United States* v. *Chavez* (1912) 228 U. S. 525, 33 Sup. Ct. 595. Consequently, the power of Congress to regulate this practice is supreme. *Gloucester Ferry Co.* v. *Pennsylvania* (1884) 114 U. S. 196, 5 Sup. Ct. 826; *Gibbons* v. *Ogden* (1824) 22 U. S. 1. It has been held repeatedly that under some circumstances this regulation may properly take the form of prohibition. See *Hoke* v. *United States* (1913) 227 U. S. 308, 33 Sup. Ct. 281; *Lottery Case* (1902) 188

U. S. 321, 23 Sup. Ct. 321. The only limitation that the courts might properly place upon this power is that such regulation must not be irrational or unreasonable. Cooke, "Nature and Scope of the Power of Congress to Regulate Commerce", 11 Columbia Law Rev. 51, 54; See Thayer, Legal Essays, 36 n. 1. Hence, there is little doubt that Congress could have placed an absolute prohibition upon the carriage of all intoxicants in interstate commerce. See *Clark Distilling Co.* v. *Western Maryland Ry.* (1916) 242 U. S. 311, 37 Sup. Ct. 180. Such a conclusion would follow, even under the test laid down in *Hammer* v. *Dagenhart* (1918) 248 U. S. 251, 38 Sup. Ct. 529, that the regulation must be of distribution and not of production. But the fact that Congress has done less than this, by making its prohibition conditioned upon the state's statute, should make no difference for the greater power certainly includes the lesser. *Clark Distilling Co.* v. *Western Maryland Ry., supra; cf. Hanover Nat'l. Bank* v. *Moyses* (1901) 186 U. S. 181, 22 Sup. Ct. 857. The argument that conditional prohibition is invalid because it is lacking in uniformity is unsound, for there is no lack of uniformity in the act itself, but only in the conditions to which it applies. *Clark Distilling Co.* v. *Western Maryland Ry., supra,* and furthermore, there is no requirement in the Constitution that regulation shall be uniform throughout the United States. Powell, "The Validity of State Legislation under the Webb-Kenyon Law", II Southern Law Quarterly, 112, 114. Hence, the majority decision in the principal case is clearly sound. The fact that the federal act conflicted with a state statute is immaterial, for once Congress acts, within its authority, all conflicting state laws must give way. *Seaboard Air Line* v. *Horton* (1913) 233 U. S. 492, 34 Sup. Ct. 635; *Gulf, Colorado, etc. Ry.* v. *Hefly* (1894) 158 U. S. 98, 15 Sup. Ct. 802.

LARCENY—INTOXICATION—CONCURRENCE OF TAKING AND INTENT.—Defendant took money from the complainant while the defendant was too drunk to know what he was doing. Upon becoming sober, the defendant decided to keep the money. *Held,* he was guilty of larceny. *May* v. *State* (Ala. 1918) 79 So. 677.

Since larceny is a crime requiring a specific intent, one who because of intoxication is unable to entertain the necessary intent cannot be convicted, *People* v. *Walker* (1878) 38 Mich. 156; see *Wood* v. *State* (1879) 34 Ark. 341, the theory being, not that drunkenness excuses responsibility, but that the crime has not in fact been committed. See *State* v. *Kavanaugh* (1902) 20 Del. 131, 53 Atl. 335. Some courts imply the necessary intent from the mere fact of voluntary intoxication, *Dawson* v. *State* (1861) 16 Ind. 428; *O'Herrin* v. *State* (1860) 14 Ind. 420, but there would seem to be no justification for this. So in the instant case, no crime having been committed at the time of the taking, the question remains whether a subsequent intent to steal will operate to convict the defendant of larceny. Following the general rule that to commit larceny the intent must exist at the time of the taking, *Cooper* v. *Commonwealth* (1901) 110 Ky. 123, 60 S. W. 938, it is held that one who takes property in good faith, either by mistake, *Wilson* v. *State* (1910) 96 Ark. 148, 131 S. W. 336; *Cooper* v. *Commonwealth, supra; contra, State* v. *Ducker* (1880) 8 Ore. 394, or by finding, *Ransom* v. *State* (1852) 22 Conn. 153, will not be made guilty of larceny by an intention to retain the same sub-